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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHAUN CARL KERIGAN and JAMES ERROL HARRIS JR.

Appeal 2007-3825
Application 09/315,656
Technology Center 2100

Decided: April 9, 2008

Before HOWARD B. BLANKENSHIP, ST. JOHN COURTENAY III, and STEPHEN C. SIU, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 13-22. Claims 1-12 have been cancelled (App. Br. 8). We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

THE INVENTION

The disclosed invention relates generally to a method for the transfer of a digital video disc (DVD) key for the decoding of encrypted, compressed DVD data to an attached device from a computer system or from an electronic display. More particularly, Appellants' invention relates to an improved controller for the transfer of such a key to an attached display device (Spec. 1-2).

Independent claim 13 is the sole independent claim before us:

13. A method for processing an encrypted data stream within a computer system comprising the steps of:

receiving an encrypted data stream from a data storage device;

transferring said encrypted data stream from said data storage device to a data display device having a plurality of data display areas, said encrypted data stream being for output to one of said plurality of data display areas;

receiving a decryption key in said data display device, said decryption key relating only to said encrypted data stream associated with said one of said plurality of data display areas; and

decrypting, in said data display device, said encrypted data stream to produce a clear data stream for output to one of said plurality of data display areas.

THE REFERENCE

The Examiner relies upon the following reference as evidence in support of the rejections:

Pinder	US 6,105,134	Aug. 15, 2000

THE REJECTIONS

Claims 13-18 and 20-22 stand rejected under 35 U.S.C. §102(e) as being anticipated by Pinder.

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Pinder.

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted).

ISSUE(S)

We have determined that the following issue is dispositive in this appeal:

Whether Appellants have shown that the Examiner erred in finding that Pinder discloses:

> receiving a decryption key in said data display device, said decryption key relating only to said encrypted data stream associated with said one of said plurality of data display areas;

(*see* independent claim 13).

ANALYSIS

Independent claim 13

After considering the evidence before us, and the respective arguments on both sides, we find the Pinder reference falls short of

anticipating Appellants' claimed invention. While we agree with the Examiner that Pinder discloses an alternate embodiment where an "intelligent television set" substitutes for the set-top box that performs the decoding (col. 7, ll. 32-39), we nevertheless find no express or inherent teaching in Pinder of relating a decryption key to an encrypted data stream *associated with one of a plurality of display areas*, as required by the language of claim 13.

Even if we assume *arguendo* that an "intelligent television" (or personal computer display) has multiple display areas, we find it does not necessarily follow that Pinder encrypts just one of the plurality of display areas for decryption by a decryption key that relates only to the encrypted data stream associated with that data display area. Our reviewing court has clearly established that "[i]nherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (internal citations omitted).

Therefore, we agree with Appellants that Pinder does not fairly disclose the following limitations recited in independent claim 13:

> receiving a decryption key in said data display device, said decryption key relating only to said encrypted data stream associated with said one of said plurality of data display areas;

(*see* independent claim 13).

We note that "absence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986).

Because we conclude that Appellants have met their burden of showing that the Examiner has failed to establish a prima facie case of anticipation, we reverse the Examiner's rejection of independent claim 13 as being anticipated by Pinder. Because each dependent claim includes all the limitations of independent claim 13, we also reverse the Examiner's rejections of dependent claims 14-22.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude Appellants have met their burden of showing that the Examiner erred in rejecting claims 13-18 and 20-22 under 35 U.S.C. § 102(e) for anticipation.

Likewise, we conclude Appellants have met their burden of showing that the Examiner erred in rejecting claim 19 under 35 U.S.C. § 103 for obviousness.

DECISION

We reverse the Examiner's decision rejecting claims 13-22.

REVERSED

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